

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KENNETH C. PONDS,

Plaintiff,

v.

PA. BOARD OF PROBATION AND
PAROLE,

Defendant.

No. 4:20-CV-00015

(Judge Brann)

(Magistrate Judge Carlson)

ORDER

JANUARY 30, 2020

Kenneth C. Ponds filed this 42 U.S.C. § 1983 complaint in which he raises claims related to his imprisonment and parole within the Commonwealth of Pennsylvania.¹ On January 7, 2020, Magistrate Judge Martin C. Carlson issued a Report and Recommendation recommending that this Court dismiss Ponds' complaint without prejudice, as he requests both monetary relief—which is appropriate in a § 1983 action—and his immediate release from state custody, which is appropriately sought in a petition for a writ of habeas corpus.² No timely objections were filed to this Report and Recommendation.

¹ Doc. 2.

² Doc. 8.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.³ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge.⁴ Upon review of the record, the Court finds no error—clear or otherwise—in Magistrate Judge Carlson’s conclusion that the differing forms of relief that Ponds seeks cannot be contained in a single complaint. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Martin C. Carlson’s Report and Recommendation (Doc. 8) is **ADOPTED**;
2. Ponds’ complaint (Doc. 2) is **DISMISSED** without prejudice; and
3. Ponds may, within 30 days of the date of this Order, file an amended complaint that clarifies and narrows the type of relief sought. Failure to file a timely amended complaint will be deemed abandonment of this action, and this matter may be closed without further warning.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge

³ Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

⁴ 28 U.S.C. § 636(b)(1); Local Rule 72.31.